

ADOPT (2008)

Chapter 15

OFF-HIGHWAY MOTOR VEHICLE RECREATION GRANTS AND COOPERATIVE AGREEMENTS PROGRAM REGULATIONS

ARTICLE 1 – GENERAL PROVISIONS

4970.00. APPLICATION OF CHAPTER

California Code of Regulations (CCR), Title 14, Division 3, Chapter 15 applies only to Grant and Cooperative Agreement Applications received by the Off-Highway Motor Vehicle Recreation (OHMVR) Division on or after January 13, 2014 2016.

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4970.01. DEFINITIONS

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(u) "Good Standing" means that the grantee is at all times adhering to the statutes and regulations governing the Grants and Cooperative Agreements Program.

(v) "Grant" means a local agency grant between the OHMVR Division and a city, county, District, State Agency, Educational Institution, or Nonprofit organization for the purposes as authorized and defined in PRC Section 5090.50 and these regulations or a Cooperative Agreement between a federal agency, or a Federally Recognized Native American Tribe, and the OHMVR Division.

(w) "Grantee" means a recipient of a Grant.

(x) "Ground Disturbing Activity" means any earth moving Project-related activity.

(y) "Habitat Management Program (HMP)" means an animal and plant wildlife habitat protection program designed to sustain a Viable Species Composition for the Project Area, pursuant to PRC Sections 5090.35, 5090.50, and 5090.53.

(z) "Inconsequential Defect" means a defect that, when corrected, does not provide the Applicant an unfair advantage.

(aa) "Indirect Costs" means ~~expenses incurred for the management and administration of a project~~ the cost of any activity that does not directly result in the completion of the project and/or the management or administration of a project. (e.g., utility costs, accounting services, contract administration, postage, management personnel, telephone bills, etc.)

(bb) "Land Manager" means ~~the public agency~~ an entity legally responsible for the proposed Project Area.

(cc) "Medical" means a person requested medical aid and was treated by emergency service personnel.

(dd) "NEPA" means the National Environmental Policy Act pursuant to United States Code Title 42, Section 4371; 40 CFR part 1500.1 et seq.

- | ~~(dd)~~(ee) "Nonprofit" means an organization having tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code (IRC).
- | ~~(ee)~~(ff) "OHV" means an off-highway motor vehicle as specified in California Vehicle Code (CVC) Section 38006.
- | ~~(ff)~~(gg) "OHV Opportunities" means roads, trails, or areas on lands that are open to legal OHV Recreation.
- | ~~(gg)~~(hh) "OHV Recreation" means the activity of driving or riding motorized vehicles, on lands to which CVC Division 16.5 applies, for leisure purposes including motorized off-highway access to non-motorized recreation activities.
- | ~~(hh)~~(ii) "On-line Grant Application (OLGA)" means the OHMVR Division's web-based application system.
- | ~~(ii)~~(jj) "Project" means the activities and Deliverables described in the Project Application to be accomplished with funding through a Project Agreement.
- | ~~(jj)~~(kk) "Project Agreement" means a contract executed to formally implement a Project.
- | ~~(kk)~~(ll) "Project Area" means the physical boundaries within which the activities will be performed and Deliverables will be accomplished as described in the Project Agreement.
- | ~~(ll)~~(mm) "Project Description" means the work plan that details the activities to be conducted by the Applicant.
- | ~~(mm)~~(nn) "Repair" means to fix, mend, make new, or revitalize to the condition of the habitat that existed prior to authorized or unauthorized OHV use and related damage.
- | ~~(nn)~~(oo) "Restoration" means upon closure of the unit or any portion thereof, the return of land to the contours, the plant communities, and the plant covers comparable to those on surrounding lands or at least those which existed prior to OHV use.
- | ~~(oo)~~(pp) "Restoration Planning" means identifying appropriate restoration techniques, strategies, and Project implementation, including environmental review associated with the Project.
- | ~~(pp)~~(qq) "Viable Species Composition" means that species found in the Project Area have populations with the estimated numbers and distribution of reproductive individuals to enable their continued existence.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5020.1(j), 5024.1, 5090.07, 5090.10, 5090.11, 5090.32, 5090.35, 5090.50, 5090.53, Public Resources Code; Sections 38001 and 38006, Vehicle Code, 25 CFR Section 83.5(a); Sections 210.3 and 66010.4, Education Code; and U. S. IRC Section 501(c)(3).

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4970.04. GRANTS PROGRAM CYCLE

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Table 2 – Grants Cycle

Activity	Date
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Application materials available on the Division Website.	The second Monday in January
Application workshops	May be held for potential Applicants. Information will be posted annually on the Division Website.
Preliminary Application filing	The first Monday in March. Applications due no later than 5:00 pm local <u>Pacific</u> time.
Public review and comment period: (1) The OHMVR Division shall post preliminary Applications on the Division Website. (2) Applicants shall notice the public.	The first Tuesday following the first Monday in March through the first Monday in April. <u>Public comments received due no later than 5:00 pm Pacific time.</u>
Application final filing date	The first Monday in May. Applications due no later than 5:00 pm local <u>Pacific</u> time.
OHMVR Division final Application review	May
Application Results Intent to Award will be posted on the Division Website.	The first Monday in June
Appeal Period Applicants have the right to appeal the OHMVR Division's Intent to Award.	Thirty (30) calendar days from the Intent to Award posting of the notice on the OHMVR Division Website.
OHMVR Division and Grantees Execute Project Agreements	Upon resolution of any appeals

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.24(b), 5090.32, and 5090.50, Public Resources Code.

4970.05. GENERAL APPLICATION REQUIREMENTS

- (a) The 2008 Grants and Cooperative Agreements Program Regulations – Appendix (Rev. 1/11) (hereinafter Appendix) and all of its contents and subsequent revisions adopted through the rulemaking process are hereby incorporated by reference.
- (b) Applications shall establish how each proposed Project is directly related to OHV Recreation in the Project Area specified in the Application. Proposed Projects will be screened by the OHMVR Division prior to scoring. Those Applications that do not establish a direct relation to OHV Recreation shall be rejected.
- (c) Subject to the discretion of the OHMVR Division as specified in Section 4970.07.2, any Application determined by the OHMVR Division to be non-compliant with these requirements may be disqualified.

- (d) Each Applicant may submit only one (1) Application for each Grants Cycle. The Application may contain multiple Projects.
- (e) Applicants shall undertake a public review process of their Application.
 - (1) All preliminary Applications shall be available on the Division Website the day following the Application deadline for public review and comment.
 - (2) Applicant shall notify the public of the opportunity to review and comment on the Preliminary Application no later than the first Tuesday following the first Monday in March. The notice shall include instructions for accessing the Division Website for Application review and public comments. Public notification efforts shall include at least one of the following:
 - (A) Notice mailed and/or emailed to those persons the Applicant determines most likely to have an interest in or be affected by the Application, and to those who have requested notice,
 - (B) Publication on Applicant's website,
 - (C) Publication in local newspaper,
 - (D) News release,
 - (E) Public meeting or hearing conducted by the Applicant.
 - (3) Public comments shall be submitted to the Applicant and the OHMVR Division.
 - (4) Public comments ~~submitted~~ received shall be submitted no later than 5:00pm Pacific time on the first Monday in April.
- (f) All Applicants shall provide matching funds or the equivalent value of services, or material, in an amount not less than twenty-five percent (25%) of the total Project cost as identified on the Project Cost Estimate (rev.1/11).
 - (1) All items of expense applied towards matching funds ~~shall be applicable to the Project~~ must directly further the activities and Deliverables described in the Project Application to be accomplished with funding through a Project Agreement and shall be documented the same as any other item of expense.
 - (2) The same match expenses shall not be duplicated for multiple Projects.
 - (3) Cash value for volunteer time shall be determined using the agency's hourly reimbursement rate for the paid classification that most closely matches the duties performed by the volunteer. Cash value for salaried employee time shall be based on the agency's hourly reimbursement rate for the classification.
 - (4) Any item of expense that would be eligible as a Project cost is also eligible as a match.
- (g) All Applicants shall provide a Project Cost Estimate (see Appendix) for each requested Project.
- (h) All Applicants shall complete an inventory of Equipment for items purchased with OHV Trust Funds within the last five years.
- (i) All Applicants except those applying solely for law enforcement shall complete the Applicant Certifications.
- (j) Additional requirements within the Appendix, incorporated by reference, shall be completed as applicable.
- (k) Nonprofit organizations shall provide documentation, in the form of an Internal Revenue Service (IRS) letter of determination or publication on the official IRS website, verifying current IRC, Section 501(c)(3) status.

- (l) ~~Educational Institutions and Nonprofit organizations~~ An applicant applying for a Grant involving activities on any public lands not managed by the applicant shall include written permission from the Land Manager authorizing the Applicant to conduct the proposed Project and a description of how the Project fits with the land management goals of the area.
 - (1) The written permission must be on Land Manager's letterhead and signed by the authorized representative of the Land Manager.
 - (2) The written permission shall contain a current signature and date. The date of required letter must not be more than six (6) months prior the beginning of the grant cycle in which the project will be applied for.
 - (3) The written permission must specifically identify the proposed Project(s) and a description of how the Project(s) fits with the land management goals of the area.
- (m) All city, county and District Applicants shall submit a governing body resolution providing approval to ~~apply~~ receive for grant funding from the OHV Trust Fund.
- (n) All Applicants shall comply with the environmental application requirements contained in Section 4970.06.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.32 and 5090.50, Public Resources Code.

Subarticle 1. ENVIRONMENTAL REQUIREMENTS

4970.06.1. California Environmental Quality Act (CEQA) Requirements

- (a) The OHMVR Division is required to comply with CEQA before approving each Grant.
- (b) When a Project request is for funding both CEQA and/or NEPA requirements and actual Project Deliverables, the Project shall be undertaken and funded in two phases as follows:
 - (1) The first phase funds the CEQA and/or NEPA activities, and
 - (2) The second phase will fund the deliverables, as approved and conditioned by the outcome of the CEQA and/or NEPA document, once the CEQA and/or NEPA conclusions result in a decision to proceed with the Project Deliverables and the Division gives approval .
 - (3) No Project Deliverables will be funded until CEQA review has been completed for the entire project.
- (c) For city, county, District, State Agency, Educational Institution, and Nonprofit organization Applicants only:
 - (1) All city, county, District, State Agency, Educational Institution and Nonprofit organization Applicants shall provide the required documentation for the OHMVR Division to determine that CEQA compliance has been met for each Project. CEQA compliance shall be determined by submitting one of the following for each Project, including match:
 - (A) An Environmental Review Data Sheet (ERDS) documenting the Project is phased pursuant to 4970.06.1(b). A subsequent ERDS shall be prepared prior to Division approval of the second Project phase if a Notice of Determination (NOD) has not been filed at that time, or

- (B) A Notice of Exemption (NOE) finding that the Project is exempt from CEQA that has been filed for the Project consistent with CEQA Guidelines Section 15062, together with responses to questions required in the ERDS, or
 - (C) An Initial Study/Negative Declaration (IS/ND) or an Initial Study/Mitigated Negative Declaration (IS/MND) for activities that are not categorically exempt, but fit within the definition of activities that may be covered by a Negative Declaration (ND) under CEQA, together with a copy of the NOD filed for the Project, or
 - (D) An Environmental Impact Report (EIR) if the proposed activity poses a potentially significant impact as defined in an IS/ND checklist, or meets any of the tests for mandatory findings of significance under CEQA (PRC Section 21083; CEQA Guidelines Section 15065), together with a copy of the NOD filed for the Project, or
 - (E) Other documentation indicating the requirements of CEQA have been satisfied or the reasons the Applicant believes the Project is categorically exempt or not subject to the CEQA review (CEQA Guidelines Sections 15061(b)(3) or 15378).
- (2) Within 45 calendar days of the final Application submission, the OHMVR Division shall review the Application for environmental compliance.
- (A) If the OHMVR Division needs to clarify information provided pursuant to 4970.06(c)(1), the OHMVR Division shall submit in writing a request for such information from the Applicant. The OHMVR Division shall request the Applicant provide the additional information in writing to the OHMVR Division within ten (10) calendar days of receipt of the request.
 - (B) Applicants that do not return the requested additional information within the ten (10) calendar day limit may have their Applications returned without further processing.
- (3) Notwithstanding 4970.06.1(b)(1), where the Applicant is not a lead agency and CEQA compliance has not otherwise been met, the Applicant shall provide responses to questions required in the ERDS for each Project, and shall also provide adequate information to the OHMVR Division to make a sufficient Project review to determine the appropriate level of CEQA compliance and any additional environmental documentation required.
- (A) Within 45 calendar days of the final Application submission, the OHMVR Division shall review all Projects to determine what additional documentation or information is required for the OHMVR Division to complete the requirements for CEQA, with an assessment of the amount of further CEQA analysis and compliance that may be required. The OHMVR Division cannot commit to completing the added CEQA work needed if the time and resources required exceed the time and resources available to complete the Application selection process.
 - (B) If the OHMVR Division determines that it cannot complete the necessary additional CEQA work, it reserves the right to inform the

- Applicant in writing and return the Application and supporting materials.
- (C) If the OHMVR Division determines that additional information is required for the Project to comply with CEQA and that such work may be completed with existing resources and within the timeframe for the Application process, it will request such additional documentation from the Applicant be returned within ten (10) calendar days of the written request.
- (1) Applicants who do not return the requested additional information within the ten (10) day time limit may have their Applications returned without further processing.
 - (2) For those Applications that are accepted for further CEQA compliance, the OHMVR Division shall use its best efforts to cause the CEQA compliance work to be completed. However, the OHMVR Division cannot guarantee the Project will be certified as CEQA compliant. Also, the OHMVR Division reserves the right to cease CEQA compliance work if it determines the Project may not be funded in light of the Project evaluation and scoring process and submission of the Project to the OHMVR Division for review and approval.
- (d) For federal agencies or Federally Recognized Native American Tribe Applicants only:
- (1) All federal agencies and Federally Recognized Native American Tribe Applicants shall submit an analysis of the environmental impacts of the proposed Project comparable with the requirements of CEQA, including match.
 - (A) ~~This analysis may be in the form of completed Project-related NEPA compliance documentation for each Project or other comparable documentation prepared by the Applicant. If documentation covers a larger project, the Applicant should reference sections of the document that specifically address the proposed Project. In addition, the Applicant shall submit responses to the ERDS for each Project to allow the OHMVR Division to make a sufficient Project review to determine the appropriate level of CEQA compliance and any additional environmental documentation required from the Applicant to conform the Applicant's environmental analysis to CEQA. Completed Project-related NEPA, which must include a signed decision memo, finding of no significant impact, or record of decision~~
 - (B) Reference sections relevant to the Project
 - (C) Submit responses to the ERDS
 - (D) If the Applicant is requesting funding for NEPA or other comparable document preparation per Section 4970.06.1(b) prior to implementing the remaining Project Deliverables, the Applicant shall submit an ERDS documenting the Project is phased pursuant to 4970.06.1(b). A subsequent ERDS shall be prepared prior to OHMVR Division approval of the second Project phase if a NOD

has not been filed, by the OHMVR Division or other CEQA lead agency, at that time.

- (2) Within 45 calendar days of the final Application submission, the OHMVR Division shall review all Projects to determine what additional documentation or information is required for the OHMVR Division to complete the requirements for CEQA, with an assessment of the amount of further CEQA analysis and compliance that may be required. The OHMVR Division cannot commit to completing the added CEQA work needed if the time and resources required exceed the time and resources available to complete the Application selection process.
 - (A) If the OHMVR Division determines that it cannot complete the necessary additional CEQA work, it reserves the right to inform the Applicant in writing and return the Application and supporting materials.
 - (B) If the OHMVR Division determines that additional information is required for the Project to comply with CEQA and such work may be completed with existing resources and within the timeframe for the Application process, it will request such additional documentation from the Applicant be returned within ten (10) calendar days of the written request.
 - (C) Applicants who do not return the requested additional information within the ten (10) day time limit may have their Applications returned without further processing.
 - (D) For those Applications that are accepted for further CEQA compliance, the OHMVR Division will use its best efforts to cause the CEQA compliance work to be completed. However, the OHMVR Division cannot guarantee the Project will be certified as CEQA compliant. Also, the OHMVR Division reserves the right to cease CEQA compliance work if it determines the Project may not be funded in light of the Project evaluation and scoring process and submission of the Project to the OHMVR Division for review and approval.
- (e) An agency may not rely on mitigation measures as a basis for concluding a Project is categorically exempt.
- (f) When an ERDS is required, one ERDS shall be provided for each individual Project, even if more than one (1) Project falls under the same Project type. If an individual Project addresses more than one (1) site, every site under that Project shall be clearly addressed in the ERDS.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.02, 5090.32, 5090.35, 5090.50(d)(4), 5090.53, and 21000 et seq., Public Resources Code; USC Title 42, Section 4371; and 40 CFR part 1500.1 et seq.

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4970.07. APPLICATION SUBMISSION

- (a) Applications shall be submitted via the internet through the OHMVR Division's OLGA. The OHMVR Division will not accept Applications after the published deadlines pursuant to Table 2 in Section 4970.04.
 - (1) The OLGA is an interactive database that will guide Applicants through the Application process. OHMVR Division staff will provide additional support for Applicants as needed.
 - (2) All Applications shall be submitted via the OLGA.
- (b) All Applicants shall submit preliminary and final Applications by the due date pursuant to Table 2, Section 4970.04. Applicants shall submit a preliminary and final Application to be considered for Grant award. The preliminary Application, shall include for each Project, with the exception of law enforcement Projects, at a minimum:
 - (1) Project description,
 - (2) Project Cost Estimate,
 - (3) Evaluation criteria,
 - (4) For Nonprofit organizations, verification of 501(c)(3) status pursuant to Section 4970.05(k), and
 - (5) ~~For Nonprofit organizations and Educational Institutions~~ applicants proposing projects/activities on property which they do not legally own, a written agreement pursuant to Section 4970.05(l).
- (c) Applicants for law enforcement Projects shall submit the following preliminary Application items:
 - (1) Project Cost Estimate,
 - (2) Law Enforcement Needs Assessment, and
 - (3) Law Enforcement Project Certification.
- (d) Preliminary Applications will be reviewed by the OHMVR Division. The OHMVR Division may provide comments to the Applicants, relative to compliance with the Application requirements. Comments submitted by the OHMVR Division to Applicants do not guarantee success within the competitive process and are not a commitment of funding. Additionally, the OHMVR Division, at its sole discretion, may choose to perform a preliminary Application site visit.
- (e) All Applicants shall comply with Section 4970.05(d).
- (f) Prior to the final Application submittal, Applicants may only modify their Application as a result of OHMVR Division preliminary review and/or public comments.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.32, and 5090.50, Public Resources Code.

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4970.08. ELIGIBLE PROJECT COSTS

- (a) Eligible Project costs are the costs directly related to the work identified in the Project Description. Additionally, the Applicant may receive reimbursement up to fifteen percent (15%) of the requested amount for Indirect Costs.
- (b) Examples of eligible costs include but are not limited to:
 - (1) For acquisition projects only, preliminary acquisition costs for contract preparation, acquisition appraisal, and negotiation,

- (2) Costs for an employee directly engaged in OHV Project implementation, or the first level supervisor of said employee, subject to the following:
 - (A) Costs shall be computed according to the prevailing wage (for contracted services) or salary scale (for Applicant's staff), and may include benefits (i.e., vacation, sick leave, and social security contribution) that are customarily charged by the Grantee or contractor. Personnel benefit charges shall be calculated in proportion to the actual time worked on an OHV Project.
 - (B) Costs charged to an OHV Project shall be computed on actual time worked on the Project and supported by timesheets and attendance records or comparable documentation describing the work performed on the OHV Project.
 - (C) Costs for overtime are allowed under the Grantee's established overtime policy.
 - (D) Costs for direct Project supervision.
- (3) ~~Stipends paid to volunteers according to the Grantee's normal practice or policy~~ as per diem costs to volunteers only when a volunteer is working at a remote location for three or more consecutive days. A remote location is considered to be further than 50 miles from volunteer's home/headquarters. Per diem allowances shall be as stated in Section 4970.08(b)(4).
- (4) Travel expenses and per diem for federal agencies shall follow the policies of the federal agency requesting the funds with regard to travel reimbursement and shall not exceed the established federal rates. All non-federal agency Applicants shall follow the policy established by the State of California for its employees with regard to travel reimbursement shall not exceed the rates paid to Exempt, Excluded, and Represented State of California employees. The rates are posted at <http://www.dpa.ca.gov/personnel-policies/travel/hr-staff.htm>.
- (5) Costs associated with Equipment acquired with Grantee's funds and used for an OHV Project shall be charged on a use basis in accordance with the Applicant's local fair market rental rates but shall never exceed the Grantee's actual cost. The Grantee may not charge a use fee for vehicles or Equipment purchased with OHV Trust Funds, except for fuel and minor maintenance costs,
- (6) Supplies and materials, including personal safety items, may be purchased for a specific OHV Project or may be drawn from a central stock, provided the items are claimed at a cost no higher than the original purchase price paid by the Grantee,
- (7) Construction activities, from site preparation (e.g., demolition, excavation, grading, etc.) through completion of the structure or Facility,
- (8) Relocation costs that result from the displacement of a person and/or business, in accordance with California Government Code Sections 7260-7277 or the agency's applicable law if different from California law,
- (9) Grantee insurance premiums for hazard and liability insurance for an OHV Facility,

- (10) Transportation costs for moving Equipment, material, and personnel from base of operations to project sites (excluding moving and relocation expenses resulting from changes in assignments),
- (11) Preparation and publication of maps, videos, and/or handouts may be included as part of any related Project. Maps, videos and/or handouts that display the OHV trust fund logo shall be reviewed by the OHMVR Division prior to publication,
- (12) Rent or lease of facilities or Equipment to directly complete the Project, provided that the lease shall be fair market value or Grantee's actual cost, whichever is less and shall be proportionate to the area of the facility used for the Project. Utilities to operate these facilities are eligible provided the utilities are documented separately from any rent or lease costs. Facilities not required in order to directly complete the project shall only be eligible as an indirect cost.
- (13) Equipment:
 - (A) ~~Equipment purchase or repair shall be requested as part of the Application for a specific Project. The OHMVR Division will not directly fund the purchase of equipment.~~
 - 1. The OHMVR Division shall only reimburse grantee for the cost of renting/leasing the equipment during the performance period (i.e, on a one-year project, the grantee shall only be reimbursed the equivalent of a one-year rental/lease amount).
 - 2. If the grantee chooses to buy the equipment, funds other than grant funds and/or match shall be used to pay any additional amount over rental/lease cost.
 - 3. Grantee may apply for additional equipment funds to further reimburse the cost of purchasing the equipment during subsequent grant cycles consistent with subsection
 - 4. The OHMVR Division will only reimburse up to the amount of actual equipment cost.
 - (B) Equipment purchase or repair shall be requested as part of the Application for a specific Project.
 - (C) Equipment repair shall be due to normal wear and tear and may include major mechanical overhaul or replacement of parts if it is shown by a financial analysis in the Application that repair is more cost effective than the purchase of a new piece of Equipment.
 - (D) Equipment shall be used for OHV related purposes unless the Applicant is funding the portion of the purchase price not dedicated to OHV purposes, and
 - (E) Subject to 4970.08 (13), for Nonprofit Applicants, the maximum grant request for Equipment purchases shall not exceed \$15,000 per item and the cumulative Equipment purchase total shall not exceed \$30,000 per Applicant.
 - (F) The purchase of equipment by a grantee shall be necessary for the project and shall not exceed the minimum requirements necessary to successfully accomplish the project.
- (14) Costs associated with site-specific Project planning such as design, permitting, or CEQA or NEPA analysis.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32, 5090.50, Public Resources Code.

4970.09. INELIGIBLE PROJECT COSTS

- (a) Costs not associated with the Project Description are not eligible for reimbursement.
- (b) Examples of ineligible Project costs include but are not limited to:
 - (1) Expenditures outside the Project performance period as specified in the Project Agreement,
 - (2) Work or services performed outside of the Project Description in the Project Agreement,
 - (3) Any interest expense, discount not taken, deficit or overdraft, or bonus payment,
 - (4) Charges for a contingency reserve or other similar reserve,
 - (5) A damage judgment against the Grantee,
 - (6) Workers' compensation claims,
 - (7) Travel claims not related to the Project,
 - (8) Employee relocation (moving expenses resulting from duty station or assignment change),
 - (9) Charges incurred contrary to the policies and practices of the Grantee,
 - (10) Any Project cost more appropriately funded by other Division programs or reimbursed by any other funding source. No grant funds and/or match funds shall be expended at any property owned and/or managed by the Department of Parks and Recreation.
 - (11) Awards, trophies, or plaques,
 - (12) Replacement or repair of Equipment not properly used, secured or maintained; or, where the OHMVR Division determines that the cause of the damage was the fault of the grantee,
 - (13) Use fee for Equipment purchased with moneys from the OHV Trust Fund and,
 - (14) Restoration Project funds shall not be used for the Development or maintenance of trails for motorized use.
- (c) If costs are in question, the Applicant should seek clarification from the OHMVR Division.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32 and 5090.50, Public Resources Code.

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4970.10.4 Acquisition

- (a) Purpose
Secure interests in land to sustain and/or expand OHV Recreation access and OHV Opportunities.
- (b) Available Funding
From the O&M category, at least ten percent (10%) of the funds will be available for acquisition Projects.

- (c) Examples of Deliverables
Acquisition Deliverables include, but are not limited to the following:
 - (1) Purchase of right-of-way or easement,
 - (2) Lease of twenty-five (25) years or more,
 - (3) Purchase of land in fee title,
 - (4) Purchase of an option, and
 - (5) Rights to use real property, such as permits or licenses.
- (d) Project-Specific Application Requirements
In addition to the common requirements listed in Section 4970.05, Applications for acquisition Projects shall include:
 - (1) Project Description
The Project Description shall provide sufficient clarity such that those not familiar with the Applicant or Project can understand what the Applicant intends to do. The Project Description shall include:
 - (A) A statement of the procurement activity the Applicant proposes to undertake,
 - (B) How the proposed Project relates to OHV Recreation and will add to, enhance, or otherwise sustain OHV Recreation or OHV Opportunity in the Project Area,
 - (C) Identification of the needs the Project will address,
 - (D) Location of the land to be acquired,
 - (E) The total acreage to be acquired,
 - (F) The easements affecting the property,
 - (G) The number of parcels,
 - (H) The location(s) of existing OHV Opportunities in and around the acquisition property and how the Project will affect or relate to that existing OHV Recreation,
 - (I) The total estimated cost of land to be acquired. The estimate shall be based on an appraisal by a certified a competitive market analysis provide by a real estate professional to substantiate the value of the property, and
 - (J) The status of Due Diligence.
 - (2) Acquisition Plan
The plan shall describe the process for accomplishing the acquisition Project. An acquisition plan shall include the following:
 - (A) Acquisition timeline, which shows the steps and timeline for completing the Project, including the preparation and delivery of any reports to be prepared with the funds as a Deliverable,
 - (B) Discussion of the Applicant's ability to accomplish the acquisition Project. The Applicant shall demonstrate the ability to complete the acquisition within the proposed Applicant's timeline, and
 - (C) The Due Diligence undertaken, or to be undertaken, to determine the property is usable for its intended purpose (e.g., preliminary title report and underlying documents under Schedule B, zoning information, Phase 1 Environmental Site Assessment, biotic assessment).
 - (3) Project-Specific Maps
Project-specific maps shall include:

- (A) A map(s) identifying the specific roads, trails, areas, and/or related Facilities to be acquired under the Project. The map(s) shall contain enough detail to provide someone unfamiliar with the area the ability to locate the site, and
 - (B) Assessors parcel maps, including Assessor Parcel Number (APN), of each parcel to be purchased.
- (e) Warranty for OHV use:
 - (1) The Applicant shall warrant that the acquired property will be used for OHV Recreation,
 - (2) With the exception of federal agencies, the Applicant shall cause to be inserted in the acquisition deed or other recorded transfer of title document a condition that the property shall be used for OHV Recreation purposes as defined in these Regulations and that the State of California is granted Power of Termination pursuant to California Civil Code Section 885.010 et seq. providing that, in the event the property is not used for OHV Recreation, title to the property shall be transferred to the State of California. ~~Federal agencies shall agree to use the property for OHV Recreation purposes for a minimum of 25 years; if the property is not used for the purpose of OHV Recreation for 25 years, title of the property shall transfer to the State.~~ To the maximum extent consistent with federal law, the (Federal Agencies) BLM intends to use and manage the property for OHV Recreation in accordance with the controlling (Federal Agencies) BLM land use plan; if the property is not used for the purpose of OHV Recreation, the (Federal Agencies) BLM will use reasonable efforts to request appropriations necessary to reimburse the Commission its pro-rata share of the acquisition costs of the property.
 - (3) Funds awarded for acquisition shall only be released into an escrow account established for the acquisition. Applicant shall submit all acquisition documentation, including the escrow instructions, to the OHMVR Division for review prior to close of escrow. OHMVR Division shall have no obligation to release grant funds unless the acquisition transaction conforms to these regulations.
- (f) Optional Project-Specific Application Documents
If Applicants deem it helpful to support their specific Project Application, they may submit up to two (2) pages of Project-specific photos.
- (g) Evaluation Criteria
See Appendix, incorporated by reference, for acquisition evaluation criteria.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5024.1, 5090.32, 5090.35, 5090.50 and 5090.53, Public Resources Code.

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4970.17. APPEAL PROCESS

- (a) Applicants have the right to appeal the Intent to Award. The grounds for appeal are limited to the following:

- (1) The OHMVR Division failed to follow these regulations, and/or
- (2) The OHMVR Division lacked sufficient evidence to support or deny the award of a Grant(s).
- (b) The steps for submitting an appeal are outlined in Table 6. An appeal must be received no later than 5:00 pm Pacific local time on the last day of the appeal process.
- (c) Applicants may not seek legal remedies through the courts until this appeal process has been completed.
- (d) The receipt of an appeal by the OHMVR Division may delay the execution of Project Agreements within all project categories until the appeal is resolved.

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4970.23. PAYMENT REQUESTS

Grantees are required to request payments for advances or reimbursements by submitting a current Payment Request form to the OHMVR Division. The OHMVR Division is responsible for approving and processing payment requests. Grantees may submit payment requests to the OHMVR Division at any time after the execution of the Project Agreement. The OHMVR Division reserves the right to withhold approving and/or processing payment requests if the grantee is not in good standing.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32 and 5090.50, Public Resources Code.

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4970.24. PROJECT CLOSEOUT

4970.24.1 Project Documentation

- (a) The Grantee shall submit a payment request form marked "FINAL" to the OHMVR Division within one hundred twenty (120) calendar days after the completion of the Project, or the end date as specified in the Project Agreement or amendment to the Project Agreement, whichever comes first. The Grantee shall include the following documentation with the final payment request:
 - (1) A report of deliverables completed,
 - (2) All documents supporting the expenditures claimed under the payment request,
 - (3) A summary of costs, including match requirements, that provides detailed information regarding staff, contracts, materials/supplies, Equipment purchases, Equipment use expenses, and other expenses,
 - (4) Two (2) copies of all reports as indicated in the Project Agreement for any Project that requires a report or reports as part of its Project Description. Monitoring results shall be reported to the OHMVR Division at the end of the Project,
 - (5) For all sub-contracted work, a Notice of Completion,
 - (6) Photos of Equipment purchased through the Project, and
 - (7) Photos of completed Projects, as applicable.

- (b) Final payment requests cannot be processed until the OHMVR Division has received all supporting documentation to support expenditures claimed, including documentation that the Grantee has fulfilled its match commitment. An amount equal to any unmet match commitment will be withheld from the final payment.
- (c) Any request for final payment received after one hundred twenty (120) calendar days, may be ineligible for payment or result in suspension of future payments and reimbursement to the State of any advances or other payments made. The OHMVR Division may also deem the Project closed and forward the Project file to the Department's Audits Office for an Audit.
- (d) When the OHMVR Division determines there is a refund due to the State, the grantee shall remit the refund due within sixty (60) calendar days from the written notification to the grantee by the OHMVR Division.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.32 and 5090.50, Public Resources Code.

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Subarticle 1.AUDITS

4970.25.1. Financial Audits Performance Audits

- (a) The Department of Parks and Recreation, Audits Office shall conduct an Audit of at least twenty percent (20%) of the Grantees annually. A Project is subject to Audit at any time within three years following the end of the project performance period.
- (b) The OHMVR Division will forward Grant Projects to the Department of Parks and Recreation, Audits Office for a financial Audit as appropriate. The Grantee shall cooperate with the Audits Office during an Audit. Requested records, documents, and files pertaining to the expenditures or other fiscal and/or programmatic elements of the Grant shall be provided.
- (c) Failure to fully complete Project Deliverables as agreed in the Project Agreement; and/or to maintain records supporting the expenditures made pursuant to the Project Agreement, these regulations, and any other applicable law; and/or failure of such records to support expenditures claimed and payments received, shall be grounds for an Audit exception requiring refund of amounts paid.
- (d) The Department of parks and Recreation, Audits Office will coordinate with the OHMVR Division in order to confirm the completion of Deliverables. The Department may inspect and/or make copies of any books, records, or reports of the Grantee pertaining to all Projects.
- (e) Upon completion of an audit, if there is a refund due to the State, the grantee shall remit the refund due within sixty (60) calendar days from the written notification to the grantee by the OHMVR Division.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.32, 5090.35, 5090.50, and 5090.53, Public Resources Code.

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4970.25.3. Financial Audit

- (a) The Department of Parks and Recreation, Audits Office shall conduct or cause to be conducted audits of the Grants and Cooperative Agreements program to ensure the annual program budget is managed efficiently and that processes and procedures are in place to ensure all expenditures are being made per the OHMVR Act on a three-year cycle as follows:
- (1) Year 1: Audits Office shall determine that the program has an adequate system to award Grants and Cooperative Agreements in accordance Section 4970.15. Funding Distribution.
 - (2) Year 2: Audits Office shall determine that the program has an adequate system to award Grants and Cooperative Agreements on a competitive basis, except for Law Enforcement grants.
 - (3) Year 3: Audit Office shall determine that the program has adequate internal control policies and procedures to properly account for and manage all awards; including monitoring awards and ensuring funds are utilized in accordance with the grant terms, accounting for all advances and procedures to ensure that any unspent advances are returned.